THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.24029 OF 2005

DATE: 27th JUNE 2006

Between:

Kandula Venkata Sivarama Krishna Varaprasad,
Sonof Venkata Narayana, aged 52 years,
Occ: agriculture, resident of Gopavarapugudem,
Gannavaram Mandal, Krishna District.

…. Petitioner.

And

1. The election Officer,
   Gopavarapugudem PACS Ltd. No.KR-170,
   Gannavaram Mandal, Krishna District
   And 5 others.

…. Respondents.

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ORDER:

This writ petition is filed seeking writ of Quo Warranto declaring holding of office by the 4th respondent as Executive Committee Member meant for SC (women), the 5th respondent as President and the 6th respondent as Vice-President of Gopavarapugudem PACS Ltd., Gannavaram Mandal, Krishna District, as illegal and unconstitutional.

2. It is the case of the petitioner that after conduct of elections to the Managing Committee of the society, elections for Executive Committee were scheduled to be held on 27.10.2005. The 4th

respondent was also in the fray for being elected as a co-opted member meant for SC (women) vacancy. There was some disqualification attached to the 4th respondent, since she has to pay certain dues to the society by 27.10.2005. Further, for the reasons best known to the Election Officer, the election was postponed to 28.10.2005, thereafter to 29.10.2005. By that time the 4th respondent paid all the dues to the society. May be her disqualification was waived, since the election schedule was started on 27.10.2005 and the elections were postponed to 28.10.2005 and thereafter to 29.10.2005, as on 27.10.2005, the disqualification attached against the 4th respondent disentitles her to contest for the post of co-opted member as one of the members of the Executive Committee. Therefore, the very election conducted on 29.10.2005 is illegal and liable to be set aside and in the guise of those election, the respondents 4 to 6 cannot hold office of co-opted member, President and Vice-President.

3. Learned counsel for the respondents submits that the elections were conducted on 29.10.2005 and as on that day 4th respondent had no disqualification attached since she has paid all the dues. Further, the petitioner has an effective and alternative remedy by way of filing an appeal before the Election Tribunal under Section 61(3) of the A.P. Cooperative Societies Act. Instead of filing an appeal before the Election Tribunal, the petitioner has filed this writ petition, and hence, the same is not maintainable.

4. Heard both sides.

5. Having regard to the facts and circumstances of the case, I am of the opinion that once elections were completed and the respondents 4, 5 and 6 were declared elected to their respective posts, the only course left to the petitioner was to approach the Election Tribunal and work out remedies. Under Article 226 of the Constitution of India such questions cannot be gone into. The Election Tribunal can decide even the questions of law raised in this writ petition.

6. In view of the above, without expressing any opinion on merits, the writ petition is disposed of directing the petitioner to file an election petition before properly constituted tribunal if he is so advised. On filing such an election petition, the tribunal shall entertain the same without raising any objection as to limitation, since the petitioner has approached this Court and filed this writ petition at the earliest point of time. No order as to costs.

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C.V.RAMULU, J.

Date: 27th June 206.
BSB